

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RICHARD JAWOROWSKI,

Plaintiff,

vs.

CALVIN JAMES MCBRIDE AND
WEIR TRUCKING, INC.,

Defendants.

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Civil Action No. 3:15-cv-2219

DEFENDANT'S NOTICE OF REMOVAL

Defendant ("Defendant") files this Notice of Removal under 28 U.S.C. § 1446(a) and 28 U.S.C. § 1332(a)(2).

**A.
INTRODUCTION**

Plaintiff is Richard Jaworowski; Defendants are Weir Trucking, Inc., a citizen of Arkansas, and Calvin James McBride, a citizen of Arkansas who has not been served with process as of this date (collectively "Defendants").

On April 16, 2015, Plaintiff sued Defendants on account of injuries allegedly sustained by Plaintiff on June 11, 2013 as a result of a traffic accident with Defendants.

Plaintiff served Defendant Weir Trucking, Inc. its Summons and Petition, through Defendant's Registered Agent, via certified mail on June 4, 2015, for purposes of effectuating service on Defendant Weir Trucking, Inc., as reflected in the Citation and Officer's Return on file with the 192th Judicial District Court in Dallas County. *See Exhibit A* attached hereto. Therefore, July 4, 2015 is the date from which the thirty (30)

day window for removal began to run. 28 U.S.C. §1446(b)(1); *see, e.g., Tucci v. Harford Fin.Servs.Grp.*, 600 F.Supp.2d 630, 632-33 (D.N.J.2009) (30-day period begins to run when D actually receives summons and complaint; period does not run from service on D's statutory agent). As such, Defendant Weir Trucking, Inc. as the only party served and having made its appearance, files this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b). *Bd. Of Regents of Univ. of Tex.Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

B. BASIS FOR REMOVAL

Removal is proper because this Court possesses diversity jurisdiction over the matter. 28 U.S.C. § 1332(a). Additionally, Plaintiff states in his Petition that he is seeking in excess of \$1,000,000 in this case, which is well over the \$75,000 threshold required for Federal diversity jurisdiction.

Plaintiff states in his Petition that he is a citizen of the State of Texas, which constitutes a judicial admission with respect to Plaintiff's state of residency. *See* Plaintiff's Original Petition, Section II. Additionally, Plaintiff judicially admits that unserved Defendant McBride is a citizen of Arkansas. *See id.* Finally, Defendant Weir Trucking is citizen of Arkansas as an Arkansas Corporation with its principal place of business located within the state of Arkansas. Plaintiff judicially admits same in his Original Petition. *See id.*

Given that Plaintiff is a citizen of Texas and Defendants are citizens of Arkansas, there is complete diversity among the parties to this suit, and removal based on diversity jurisdiction is proper.

An index of the state court docket and copies of all pleadings, process, orders, and other filings in the state-court suit are attached to the Notice of Removal as required by 28 U.S.C § 1446(a) as **Exhibit B**.

Venue is proper in the U.S. District Court for the Northern District of Texas under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district.

Defendants have promptly filed a copy of this notice of removal with the clerk of the state court where the suit has been pending.

C.
JURY DEMAND

A jury trial has been demanded in state court by Plaintiff.

D.
COMPLETE LIST OF ATTORNEYS

To date, only attorneys for Plaintiff and Defendant Weir Trucking have appeared. Defendant McBride has not been served and no attorney has appeared on his behalf.

Attorney for Plaintiff:

Joel M. Vecchio
SBN: 24033410
Law Office of Joel M. Vecchio, P.C.
P.O. Box 860826
Plano, Texas 75086-0826
(972) 380-4444 Telephone
(972) 380-4446 Facsimile
joel@vecchio-law.com

Attorney for Defendant Weir Trucking, Inc.:

Mike H. Bassett
SBN: 01890500
Mathew Samuel
SBN: 24025631
The Bassett Firm
Two Turtle Creek Village
3838 Oak Lawn Avenue, Suite 1300
Dallas, Texas 75219
(214) 219-9900 Telephone
(214) 219-9456 Facsimile
efile@thebassettfirm.com

<p style="text-align: center;">E. COURT INFORMATION</p>

The address and contact information for the 192nd District Court of Dallas County, Texas is as follows:

192nd Judicial District court
Hon. Craig Smith
George L. Allen, Sr. Courts Building
600 Commerce Street
7th Floor New Tower
Dallas, TX 75202
(214) 653-7709 Telephone

<p style="text-align: center;">CONCLUSION</p>

Because Weir Trucking, the only served Defendant in this lawsuit, is a citizen of the state of Arkansas and Plaintiff is a citizen of Texas, complete diversity exists creating diversity jurisdiction under 28 U.S.C. § 1332(a), and venue is proper in the U.S. District Court for the Northern District of Texas under 28 U.S.C. § 1441(a), Defendant Weir

Trucking, Inc. asks the Court to remove this suit to the U.S. District Court for the Northern District of Texas, Dallas Division.

Respectfully Submitted,

THE BASSETT FIRM

/s/ Mike H. Bassett

MIKE H. BASSETT

SBN: 01890500

MATHEW SAMUEL

SBN: 24025631

Two Turtle Creek Village

3838 Oak Lawn Avenue, Suite 1300

Dallas, Texas 75219

(214) 219-9900 Telephone

(214) 219-9456 Facsimile

efile@thebassettfirm.com

**ATTORNEYS FOR DEFENDANT,
WEIR TRUCKING, INC.**

CERTIFICATE OF SERVICE

I certify that a true copy of this document was forwarded to the following counsel of record on this 2nd day of July, 2015, pursuant to the Texas Rules of Civil Procedure:

Via ECF-PACER and Facsimile:

Joel M. Vecchio

Law Office of Joel M. Vecchio, P.C.

P.O. Box 860826

Plano, Texas 75086-0826

joel@vecchio-law.com

/s/ Mike H. Bassett

MIKE H. BASSETT

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Richard Jaworowski

(b) County of Residence of First Listed Plaintiff Dallas County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joel M. Vecchio, - SBN: 24033410 - Law Office of Joel M. Vecchio, P.C.
P.O. Box 860826, Plano, TX 75086-0826, Tel.: 972-380-4444
Fax: 972-380-4446; email: joel@vecchio-law.com

DEFENDANTS

Weir Trucking, Inc. and Calvin James McBride

County of Residence of First Listed Defendant union county
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Mike H. Bassett - SBN: 01890500, Mathew Samuel - SBN: 24025631,
The Bassett Firm, 3838 Oak Lawn Ave., Ste. 1300, Dallas, TX 75219,
Tel: 214-219-9900, Fax: 214-219-9456; efile@thebassettfirm.com

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC 1332

Brief description of cause: Negligence

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 1,000,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED PENDING OR CLOSED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 07/02/15

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT

A

United States District Court
Northern District of Texas

Supplemental Civil Cover Sheet For Cases Removed
From State Court

This form must be attached to the Civil Cover Sheet at the time the case is filed in the U.S. District Clerk's Office. Additional sheets may be used as necessary.

1. State Court Information:

Please identify the court from which the case is being removed and specify the number assigned to the case in that court.

Court

192nd Judicial District court
George L. Allen, Sr. Courts Building
600 Commerce Street, 7TH Fl.
Dallas, TX 75202
(214) 653-7709 Telephone

Case Number

DC-15-04374

2. Style of the Case:

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code.)

Party and Party Type

Richard Jaworowski - Plaintiff

Weir Trucking, Inc. and
Calvin James McBride - Defendants

Attorney(s)

Joel M. Vecchio - SBN: 24033410, Law Office of Joel M. Vecchio, P.C.
P.O. Box 860826, Plano, Texas 75086-0826, Tel.: 972-380-4444; Fax: 972-380-4446
email: joel@vecchio-law.com

Mike H. Bassett - SBN: 01890500, and Mathew Samuel - SBN: 24025631
The Bassett Firm, Two Turtle Creek Village, 3838 Oak Lawn Ave, Ste. 1300,
Dallas, Texas 75219, Tel.: 214-219-9900, Fax: 214-219-9456
email: efile@thebassettfirm.com

3. Jury Demand:

Was a Jury Demand made in State Court?

Yes

No

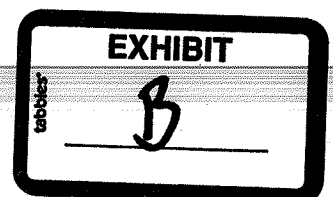
If "Yes," by which party and on what date?

Plaintiff

Party

4/16/15

Date



Supplemental Civil Cover Sheet
Page 2

4. **Answer:**

Was an Answer made in State Court?

Yes

No

If "Yes," by which party and on what date?

Woss Truck, Inc.
Party

6/29/15
Date

5. **Unserved Parties:**

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason(s) for No Service</u>
Defendant Calvin James McBride	Unknown

6. **Nonsuited, Dismissed or Terminated Parties:**

Please indicate any changes from the style on the State Court papers and the reason for that change:

<u>Party</u>	<u>Reason</u>
None	

7. **Claims of the Parties:**

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claim(s)</u>
TT	Negligence

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Civil District Search](#) [Refine Search](#) [Back](#)
Location : All District Civil Courts [Images](#) [Help](#)**REGISTER OF ACTIONS**CASE NO. DC-15-04374

RICHARD JAWOROWSKI vs. CALVIN MCBRIDE, et al

§
§
§
§
§Case Type: **MOTOR VEHICLE ACCIDENT**Date Filed: **04/16/2015**Location: **192nd District Court****PARTY INFORMATION**

DEFENDANT MCBRIDE, CALVIN JAMES

Lead Attorneys**Pro-Se**

DEFENDANT WEIR TRUCKING, INC.

Pro-Se

DEFENDANT Weir Trucking, Inc.

MICHAEL H BASSETT*Retained*

214-219-9900(W)

PLAINTIFF JAWOROWSKI, RICHARD

JOEL M VECCHIO*Retained*

972-380-4444(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS			
04/16/2015	NEW CASE FILED (OCA) - CIVIL		
04/16/2015	CASE FILING COVER SHEET		
04/16/2015	ORIGINAL PETITION		
04/16/2015	ISSUE CITATION		
04/22/2015	CITATION		
	MCBRIDE, CALVIN JAMES	Returned Unserved	05/05/2015
		Returned	05/05/2015
	WEIR TRUCKING, INC.	Returned Unserved	05/27/2015
		Returned	05/27/2015
04/22/2015	CITATION ISSUED		
05/15/2015	REQUEST FOR SERVICE		
05/15/2015	ISSUE CITATION COMM OF INS OR SOS		
05/25/2015	CORRESPONDENCE - LETTER TO FILE		
	<i>COVER LETTER TO TEXAS TRANSPORTATION COMMISSION</i>		
05/26/2015	CITATION SOS/COI/COH/HAG		
	CMR #9214-8901-0661-5400-0059-1431-81		
	MCBRIDE, CALVIN JAMES	Served	05/29/2015
		Returned	06/01/2015
05/26/2015	CITATION		
	CMR #9214-8901-0661-5400-0059-1438-08		
	WEIR TRUCKING, INC.	Served	06/04/2015
		Returned	06/08/2015
06/29/2015	ORIGINAL ANSWER - GENERAL DENIAL		

FINANCIAL INFORMATION

PLAINTIFF JAWOROWSKI, RICHARD			
	Total Financial Assessment		547.00
	Total Payments and Credits		547.00
	Balance Due as of 07/02/2015		0.00
04/20/2015	Transaction Assessment		459.00
04/20/2015	CREDIT CARD - TEXFILE (DC)	Receipt # 22873-2015-DCLK	JAWOROWSKI, RICHARD (459.00)
05/21/2015	Transaction Assessment		88.00
05/21/2015	CREDIT CARD - TEXFILE (DC)	Receipt # 29253-2015-DCLK	JAWOROWSKI, RICHARD (88.00)

EXHIBIT**C**

Freeney Anita

DC-15-04374

CAUSE NO. _____

**RICHARD JAWOROWSKI,
PLAINTIFF,**

IN THE DISTRICT COURT

vs.

192ND JUDICIAL DISTRICT

**CALVIN JAMES MCBRIDE and
WEIR TRUCKING, INC.,
DEFENDANTS.**

DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION and REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff Richard Jaworowski and submits this, his Original Petition, and in support thereof would respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

Discovery is intended to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure. Plaintiff seeks damages in excess of \$1,000,000.00.

II. PARTIES, JURISDICTION AND VENUE

Plaintiff **RICHARD JAWOROWSKI** is an individual who resides in Dallas County, Texas. The last four digits of his Texas driver's license are 4044.

Defendant **CALVIN JAMES MCBRIDE** is an employee of Defendant WEIR TRUCKING, INC. and may be found at 1328 E. Block Street, El Dorado

PLAINTIFF'S ORIGINAL PETITION and REQUEST FOR DISCLOSURE

EXHIBIT

D

Union, Arkansas 71730. Defendant Calvin James McBride is a non-resident driver and thus may be served pursuant to CPRC § 17.061 by serving the Chairman of the Texas Transportation Commission, Tryon D. Lewis, 125 E. 11th Street, Austin, Texas 78701-2483.

Defendant **WEIR TRUCKING, INC.** is a foreign corporation with its principal offices located in the State of Arkansas, and is licensed and registered as an interstate motor carrier. Defendant Weir Trucking, Inc. engaged in business in the State of Texas by allowing its employee, agent, or servant to operate a motor vehicle on the roads and highways of the State of Texas and in so doing he was involved in a motor vehicle collision with Plaintiff on Stemmons Freeway in Dallas, Dallas County, Texas. Tex. Civ. Prac. & Rem. Code §§17.041 and 17.042(2). Defendant Weir Trucking, Inc. filed a form BOC-3 with the Federal Motor Carrier Safety Administration making a blanket designation naming PROCESS AGENT SERVICE COMPANY, INC. its process agent. Therefore, service of process on Defendant Weir Trucking, Inc. may be made by serving its process agent:

Jeffrey Fultz
5652 Cypress Creek Parkway
Houston, Texas 77069

Plaintiff request that Citation be issued, and service via certified mail return receipt requested.

Venue of this case is proper in Dallas County, Texas because the incident made the basis of this lawsuit occurred in Dallas, Dallas County, Texas. The amount of damages sought are within this Court's jurisdictional limits.

III. BACKGROUND FACTS

On or about June 11, 2013 at approximately 2:15 pm, Plaintiff traveled North on Stemmons Freeway in Dallas, Dallas County, Texas. Suddenly, violently and without warning, Defendant Calvin James McBride, driving a vehicle owned and maintained by Defendant Weir Trucking, Inc., collided into the rear of the Plaintiff's vehicle. The resulting collision and impact caused the injuries and damages complained of in this petition.

Upon information and belief, Defendant Calvin James McBride was acting in his capacity as an employee and agent of Defendant Weir Trucking, Inc. and in furtherance of Defendant Weir Trucking, Inc. business at all relevant times. Accordingly, Defendant Calvin James McBride acts and omissions may be imputed to Defendant Weir Trucking, Inc. and Defendant Weir Trucking, Inc. is liable to Plaintiff for Defendant Calvin James McBride's negligence under the doctrine of *respondeat superior*.

IV. NEGLIGENCE

Defendants had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to

those described herein.

Plaintiff's injuries were proximately caused by Defendants' negligent, careless and reckless disregard of said duty. The negligent, careless and reckless disregard of duty of the Defendants consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant Calvin James McBride failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant Calvin James McBride failed to control the speed of his automobile and failed to control the maneuvering of said automobile as an ordinary, prudent individual would have in the same or similar situation;
- C. Defendant Calvin James McBride failed to pay attention, as an ordinary, prudent individual would have in the same or similar situation;
- D. Defendant Calvin James McBride failed to apply his brakes, as an ordinary, prudent individual would have in the same or similar situation; and
- E. Defendant Calvin James McBride failed to move his vehicle to the left or right to avoid the collision, as an ordinary, prudent individual would have in the same or similar situation.

On the occasion in question, Defendant Weir Trucking, Inc. was negligent in the following respects:

- A. Failing to conduct a proper investigation in inquiring into the background of Defendant Calvin James McBride in accordance with 49 CFR § 391.23;
- B. Failing to investigate the driving record of Defendant Calvin James

McBride, in accordance with 49 CFR § 391.23;

- C. Failing to employ a driver who was knowledgeable of the safety regulations as required by 49 CFR § 392.1;
- D. Failed to require the driver to observe the regulations as required by contravention of 49 CFR § 390.11, and/or aided and abetted the violation in contravention of 49 CFR § 390.13 (such as failing to have the drive file correct logs and not work in excess of the maximum allowed hours required in 49 CFR § 395.3 and 395.8);
- E. Defendant permitted (required, encouraged) the driver to work in excess of the number of hours as required by 49 CFR § 395.3;
- F. Defendant failed to institute a program to discover the falsity of their drivers' logs even through the documentary proof of such violations was furnished to Defendant after each trip through the trip receipts and such violations were evident to the defendant, as required by 49 CFR § 390.11, § 390.13 and § 395.3.

Each and all of the foregoing acts of negligence by Defendants were a proximate cause of the occurrence made the basis of this suit, and all of the damages and injuries sustained by Plaintiff.

V. DAMAGES

As a result of the negligence previously described, Plaintiff was seriously and permanently injured. This Original Petition is brought to recover for Plaintiff's injuries and for damages suffered that include but are not limited to the following:

- 1. Disfigurement. Plaintiff suffered disfigurement to his body as a result of the injuries he suffered in the incident made the basis of this suit.

2. Physical impairment. Plaintiff suffered in the past and will suffer in the future physical impairment.
3. Mental anguish. Mental anguish suffered by Plaintiff both in the past and to be incurred in the future.
4. Pain and suffering. The pain and suffering suffered by Plaintiff both in the past and to be incurred in the future.
5. Medical expenses. The medical expenses sustained by Plaintiff both in the past and to be incurred in the future.
6. Loss of earnings. Plaintiff suffered loss of earnings has a result of this incident made the basis of this suit.
7. Loss of wage earning capacity. Plaintiff has a loss of wage earning capacity that he will incur in the future.

Plaintiff has thus been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

VI. PREJUDGMENT INTEREST

Plaintiff seeks prejudgment interest at the highest legal rate allowed by Law.

VII. POST JUDGMENT INTEREST

Plaintiff seeks post-judgment interest at the highest rate allowed by law.

VIII. JURY DEMAND

Plaintiff respectfully requests a jury trial in the above entitled and numbered cause and has tendered the required jury fee.

IX. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff request that

Defendants be cited to appear and answer and that on final hearing the Plaintiff have final judgment against Defendants, jointly and severally, for an amount within the jurisdictional limits of the Court, together with interest at the lawful rate from June 11, 2013 until judgment, and post-judgment interest at the lawful rate, costs of court and for such other and further relief, at law or in equity to which Plaintiff is justly entitled.

X. REQUEST FOR DISCLOSURE

Pursuant to TEXAS RULE OF CIVIL PROCEDURE 194, you are requested to disclose, within fifty (50) days of service of this request, the information or material described in TEXAS RULE OF CIVIL PROCEDURE 194.2.

Respectfully submitted,

Law Office of Joel M. Vecchio, P.C.

By:

/s/ Joel M. Vecchio

JOEL M. VECCHIO
State Bar No. 24033410
P.O. Box 860826
Plano, Texas 75086-0826
Tel. (972) 380-4444
Fax (972) 380-4446
joel@vecchio-law.com
Attorney for Plaintiff

E

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**TO: WEIR TRUCKING, INC.
BY SERVING ITS PROCESS AGENT, JEFFREY FULTZ
5652 CYPRESS CREEK PARKWAY
HOUSTON, TEXAS 77069**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE** petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 192nd District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **RICHARD JAWOROWSKI**

Filed in said Court 16th day of April, 2015 against

CALVIN JAMES MCBRIDE, ET AL

For Suit, said suit being numbered **DC-15-04374-K**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition,
a copy of which accompanies this citation. If this citation is not served, it shall be returned
unexecuted.

WITNESS: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 26th day of May, 2015.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas



By *Springe Mckinley*, Deputy
SPRUNGE MCKINLEY

CERT/MAIL
CITATION

DC-15-04374-K

RICHARD JAWOROWSKI
vs.
CALVIN JAMES MCBRIDE, et al

ISSUED THIS
26th day of May, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: **SPRUNGE MCKINLEY**, Deputy

Attorney for Plaintiff
JOEL M. VECCHIO
THE LAW OFFICE OF JOEL M
VECCHIO PC
P.O. BOX 860826
DALLAS, TEXAS 75086-0826
972-380-4444

DALLAS COUNTY CONSTABLE

FEES NOT PAID

EXHIBIT

F

OFFICER'S RETURN

Case No.: DC-15-04374

Court No. 192nd District Court

Style: RICHARD JAWOROWSKI

vs.

CALVIN J. MCBRIDE, et al

Came to hand on the 26th day of May, 20 15 at 10:20 o'clock A.M. Executed at _____
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____
20 _____, by delivering to the within named _____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading WAS MAILED UNITED STATES CERTIFIED MAIL RETURN RECEIPT
REQUESTED, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To
certify which witness my hand.

For serving Citation \$76.00

For mileage \$ _____

For Notary \$ _____

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20 _____,
to certify which witness my hand and seal of office.

9214-8901-0661-5400-0059-1438.08

Notary Public _____ County _____

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To: **WEIR TRUCKING, INC**
SERVE PROCESS AGENT JEFFREY FULTZ
5652 CYPRESS CREEK PARKWAY
HOUSTON, TX 77069

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 192nd District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **RICHARD JAWOROWSKI**

Filed in said Court **16th day of April, 2015** against

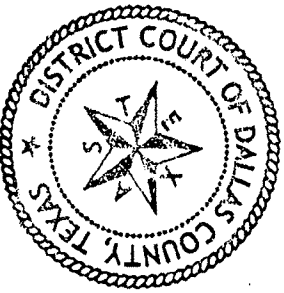
CALVIN JAMES MCBRIDE ET AL

For Suit, said suit being numbered **DC-15-04374**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 22nd day of April, 2015.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas

By *Stephanie Clark* Deputy
STEPHANIE CLARK



CERT MAIL

CITATION

DC-15-04374

RICHARD JAWOROWSKI
vs.
CALVIN MCBRIDE, et al

ISSUED THIS
22nd day of April, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: **STEPHANIE CLARK**, Deputy

Attorney for Plaintiff
JOEL M VECCHIO
PO BOX 860826
DALLAS TX 75086-0826
972-380-4444

DALLAS COUNTY CONSTABLE

FEEES
PAID

FEEES NOT
PAID

EXHIBIT

5

539923

OFFICER'S RETURN

Case No. : DC-15-04374

Court No. 192nd District Court

Style: RICHARD JAWOROWSKI

vs.

CALVIN MCBRIDE, et al

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M. Executed at _____, within the County of _____ at _____ o'clock _____ M. on the _____ day of _____, 20____, by delivering to the within named _____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation

\$ _____

For mileage

\$ _____

For Notary

\$ _____

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public _____ County _____

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To: **CALVIN JAMES MCBRIDE**
1328 E BLOCK STREET
FL DORADO UNION AR 71730

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **192nd District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **RICHARD JAWOROWSKI**

Filed in said Court **16th day of April, 2015** against

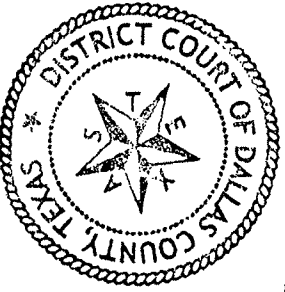
CALVIN JAMES MCBRIDE ET AL

For Suit, said suit being numbered **DC-15-04374**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this **22nd day of April, 2015**.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By *Stephanie Clark*, Deputy
STEPHANIE CLARK



CERT MAIL

CITATION

DC-15-04374

RICHARD JAWOROWSKI
vs.
CALVIN MCBRIDE, et al

ISSUED THIS
22nd day of April, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: **STEPHANIE CLARK**, Deputy

Attorney for Plaintiff
JOEL M VECCHIO
PO BOX 860826
DALLAS TX 75086-0826
972-380-4444

DALLAS COUNTY CONSTABLE

FEEES PAID
FEEES NOT PAID

EXHIBIT

H

30999

OFFICER'S RETURN

Case No. : DC-15-04374

Court No. 192nd District Court

Style: RICHARD JAWOROWSKI

vs.

CALVIN MCBRIDE, et al

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M. Executed at _____ within the County of _____ at _____ o'clock _____ M. on the _____ day of _____, 20____, by delivering to the within named _____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation

\$ _____

For mileage

\$ _____

For Notary

\$ _____

of _____ County, _____
By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20____.
to certify which witness my hand and seal of office.

Notary Public _____ County _____

To:

CALVIN JAMES MCBRIDE
BY SERVING THE CHAIRMAN OF THE STATE HIGHWAY AND
PUBLIC TRANSPORTATION COMMISSION
125 E. 11TH STREET
AUSTIN, TX, 78701-2483

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

petition, a default judgment may be taken against you.
Your answer should be addressed to the clerk of the 192nd District Court
at 600 Commerce Street, Dallas, Texas 75202.

Said PLAINTIFF being RICHARD JAWOROWSKI

Filed in said Court 16th day of April, 2015 against
CALVIN JAMES MCBRIDE, ET AL

For suit, said suit being numbered **DC-15-0437-K** the nature of which demand is as follows:
Suit On **MOTOR VEHICLE ACCIDENT** etc.

as shown on said petition , a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.

Given under my hand and official seal of said Court at office on this the 26th day of May, 2015

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas



By Springe Mckinley, Deputy
SPRINGE MCKINLEY

CERT/MAIL COH

CITATION

No.: DC-15-04374-K

RICHARD JAWOROWSKI
VS.
CALVIN MCBRIDE, ET AL

ISSUED

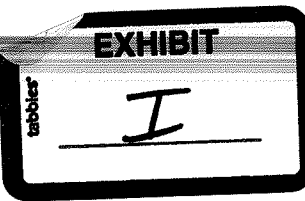
ON THIS THE 26TH DAY OF MAY, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By SPRINGE MCKINLEY, Deputy

Attorney for : Plaintiff
JOEL M. VECCHIO
THE LAW OFFICE OF JOEL M VECCHIO
PC
P.O. BOX 860826
DALLAS, TEXAS 75086-0826
972-380-4444

DALLAS COUNTY CONSTABLE
YES PAID YES NOT PAID



OFFICER'S RETURN
FOR INDIVIDUALS

Court No: 192nd District Court

Style: RICHARD JAWOROWSKI

vs.

CALVIN JAMES MCBRIDE, et al

Received this Citation the _____ day of _____, 20____ at _____ o'clock. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock, by _____ delivering to the within named _____ each in person, a copy of this Citation together with the accompanying copy of Plaintiff's original petition, having first indorsed on same the date of delivery.

-----000000-----

OFFICER'S RETURN
FOR CORPORATIONS

Received this Citation the 26th day of May, 2015 at 11:30 o'clock A.M. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock _____ M. by summoning the within named Corporation, _____ by delivering to _____ President - Vice President - Registered Agent - in person, of the said _____

a true copy of this citation together with the accompanying copy of Plaintiff's original petition WAS MAILED UNITED STATES, having first indorsed on same the date of delivery.

-----000000-----

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness by my hand.

For Serving Citation \$ 76.00
For Mileage \$ _____
For Notary \$ _____
Total Fees \$ _____
By _____ Sheriff _____
County of _____
State of _____

Must be verified if served outside the State of Texas)

State of _____
County of _____
Signed and sworn to me by the said _____ before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Seal

State & County of _____

9214-8901-0661-5400-0057-1431-81

LAW OFFICE OF
JOEL M. VECCHIO
A PROFESSIONAL CORPORATION

Christi Underwood

903 E. 18th STREET, SUITE 103
PLANO, TEXAS 75074

TELEPHONE (972) 380-4444

FAX (972) 380-4446

May 15, 2015

VIA E-FILE

Dallas County District Clerk
ATTN : Anita Freeney
600 Commerce Street
Dallas, Texas 75201

RE: CAUSE NO. 15-04374
Jaworosky v. McBride

Dear Ms. Freeney,

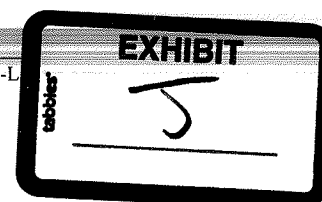
I need a citation issued for out of state driver / Defendant Calvin James McBride to the Chairman of Texas Transportation Commission. A check for \$25.00 and two copies of the Original Petitions are coming via mail.

Thank you for your attention with this matter.

Sincerely,

/s/ JOEL M. VECCHIO

Joel M. Vecchio



LAW OFFICE OF
JOEL M. VECCHIO
A PROFESSIONAL CORPORATION

Freeney Anita

903 E. 18th STREET, SUITE 103
PLANO, TEXAS 75074

TELEPHONE (972) 380-4444

FAX (972) 380-4446

May 25, 2015

Mr. Tyron D. Lewis
Chairman of the Texas Transportation Commission
125 E. 11th Street
Austin, Texas 78701-2483.

RE: CAUSE NO. 15-04374; 192nd Judicial District, Dallas County.
Jaworoski v. McBride

Dear Chairman:

Enclosed please find our firm's check in the amount of \$25.00 as payment for service on out of state driver Defendant Calvin James McBride.

Please have the Citation, along with one copy of the Plaintiff's Original Petition served on the Defendant at his address: **1328 E. Block Street, El Dorado Union, Arkansas 71730.**

The collision took place on a Texas Roadway on Highway 35E in Dallas, Dallas County, Texas.

Thank you for your attention with this matter.

Sincerely,

/s/ JOEL M. VECCHIO

Joel M. Vecchio

OFFICER'S RETURN

FILED

Case No. : DC-15-04374

Court No. 192nd District Court

Style: RICHARD JAWOROWSKI

vs.

CALVIN MCBRIDE, et al

2015 MAY -5 AM 11:10

DEPUTY CLERK

Came to hand on the 22 day of April, 20 15, at 2:16 o'clock P. M. Executed at _____
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____

20 _____ by delivering to the within named unexecuted by US Certified Mail restricted
delivery return receipt not deliverable as addressed
each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation

\$ 76.00

unexecuted

FELICIA PITRE, DIST. CLERK

For mileage

\$ _____

of _____ County,

For Notary

\$ _____

By Stephanie Clark Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20 _____.
to certify which witness my hand and seal of office.

Notary Public _____ County _____

EXHIBIT

K

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To: **CALVIN JAMES MCBRIDE**
1328 E BLOCK STREET
EL DORADO UNION AR 71730

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **192nd District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **RICHARD JAWOROWSKI**

Filed in said Court **16th day of April, 2015** against

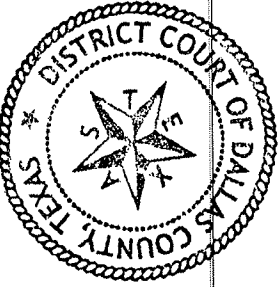
CALVIN JAMES MCBRIDE ET AL

For Suit, said suit being numbered DC-15-04374, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this **22nd day of April, 2015**.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas

By *Stephanie Clark*, Deputy
STEPHANIE CLARK



CERT MAIL

CITATION

DC-15-04374

RICHARD JAWOROWSKI
vs.
CALVIN MCBRIDE, et al

ISSUED THIS
22nd day of April, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

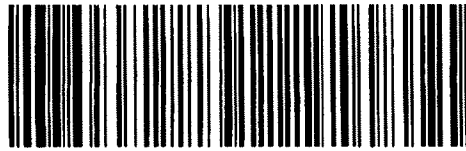
By: **STEPHANIE CLARK**, Deputy

Attorney for Plaintiff
JOEL M VECCHIO
PO BOX 860826
DALLAS TX 75086-0826
972-380-4444

DALLAS COUNTY CONSTABLE

FEE PAID
FEE NOT PAID

FELICIA PITRE DISTRICT CLERK
GEORGE L. ALLEN, SR. COURTS BLDG
800 COMMERCE ST STE 103
DALLAS, TX 75202-6604



Return Receipt (Electronic)

9269 3901 0661 5400 0057 1873 66

DC-15-04374/ CIT SC
CALVIN JAMES MCBRIDE
1328 E. BLOCK STREET
EL DORADO UNION, AR 71730

RESTRICTED DELIVERY

CUT / FOLD HERE

6"x9" ENVELOPE
CUT / FOLD HERE

CUT / FOLD HERE

FELICIA PITRE DISTRICT CLERK
GEORGE L ALLEN, SR. COURTS BLDG
600 COMMERCE ST STE 103
DALLAS, TX 75202-8604

Return Receipt (Electronic)

DC-15-04374/ CIT SC
CALVIN JAMES MCBRIDE
1328 E. BLOCK STREET
EL DORADO UNION, AR 71730

CERTIFIED MAIL



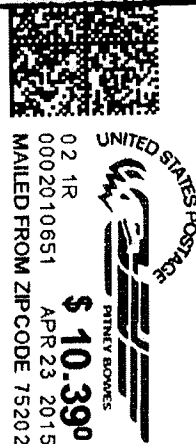
RESTRICTED DELIVERY

71730586004

**RESTRICTED DELIVERY
DELIVER TO ADDRESSEE ONLY**

X 722 N7E 100941410204/25/15
FORWARD TIME EXP RTN TO SEND
MCBRIDE
1323 W 1ST ST APT 63
EL DORADO AR 71730-6943

RETURN TO SENDER
ONLY



OFFICER'S RETURN

Case No. : DC-15-04374

Court No. 192nd District Court

Style: RICHARD JAWOROWSKI

vs.

CALVIN MCBRIDE, et al

Came to hand on the

22 day of April, 2015 at 2:16 o'clock P

M. Executed at

within the County of

at o'clock M. on the day of

20, by delivering to the within named

unexecuted by US Certified Mail restricted
delivery return receipt not deliverable as addressed

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was miles and my fees are as follows: To certify which witness my hand.

For serving Citation

\$ 76.00

unexecuted

FELICIA PITRE, DIST. CLERK

For mileage

\$

of County,

For Notary

\$

By Stephanie Clark Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said

before me this day of , 20

to certify which witness my hand and seal of office.

Notary Public

County

2015 MAY 27 PM 3:04

EXHIBIT

7

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: WEIR TRUCKING, INC
SERVE PROCESS AGENT JEFFREY FULTZ
5652 CYPRESS CREEK PARKWAY
HOUSTON, TX 77069**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 192nd District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **RICHARD JAWOROWSKI**

Filed in said Court 16th day of April, 2015 against

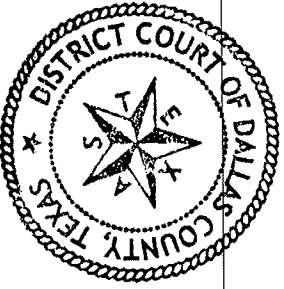
CALVIN JAMES MCBRIDE ET AL

For Suit, said suit being numbered DC-15-04374, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 22nd day of April, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By *Stephanie Clark* Deputy
STEPHANIE CLARK



CERT MAIL

CITATION

DC-15-04374

RICHARD JAWOROWSKI

vs.

CALVIN MCBRIDE, et al

**ISSUED THIS
22nd day of April, 2015**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: STEPHANIE CLARK, Deputy

**Attorney for Plaintiff
JOEL M VECCHIO
PO BOX 860826
DALLAS TX 75086-0826
972-380-4444**

DALLAS COUNTY CONSTABLE

**FEES PAID
FEES NOT PAID**

CUT/FOLD HERE

6-X97 ENVELOPE
CUT/FOLD HERE

CUT/FOLD HERE

DC-15-04374/ CIT SC
WEIR TRUCKING, INC
BY SERVING PROCESS AGENT JEFFREY FULTZ
5662 CYPRESS CREEK PARKWAY
HOUSTON, TX 77069

RESTRICTED DELIVERY

9269 3901 0661 5400 0057 1873 35



Return Receipt (Electronic)

FELICIA PIERRE DISTRICT CLERK
GEORGE L. ALLEN, SR. COURTS BLDG
800 COMMERCE ST STE 103
DALLAS, TX 75202-6604

FELICIA PITRE, DISTRICT CLERK
GEORGE L. ALLEN, SR. COURTS BLDG
600 COMMERCIAL ST, STE 103
DALLAS, TX 75202-9604

Date of Birth (MM/DD/YYYY)

DC-15-04374/ CIT SC
WEIR TRUCKING, INC
BY SERVING PROCESS AGENT JEFFREY FULTZ
6552 CYPRESS CREEK PARKWAY
HOUSTON, TX 77069

RESTRICTED DELIVERY

CERTIFIED MAIL



UNITED STATES POSTAGE
02 1R
0002010651
MAILED FROM ZIP CODE 75202

\$ 10.39

PRIMEV BOWES



**RESTRICTED DELIVERY
DELIVER TO ADDRESSEE ONLY**

NIXIE

SHOW TO WHOM

773 SE 1009

7205/20/15

RETURN TO SENDER
UNABLE TO FORWARD

BC: 75202660428

*0234-04301-23-42

Cause No. DC-15-04374

Court No: 192nd District Court

style: RICHARD JAWOROWSKI

CALVIN JAMES MCBRIDE, et al

Received this Citation the _____ day of _____, 20____ at _____ o'clock. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock, by _____ delivering to the within named _____ each in person, a copy of this Citation together with the accompanying copy of Plaintiff's original Citation, having first indorsed on same the date of delivery.

OFFICER'S RETURN FOR CORPORATIONS

Received this Citation the 26th day of May, 2015 at 11:30 o'clock A.M. Executed at Cumtun, within the County of Franklin State of Vermont, by delivering to Calvin Jean Hebert, on the 29th day of May, 2015, at 7:02 o'clock A.M. by summoning the within named Corporation, Calvin Jean Hebert President - Vice President - Registered Agent - in person, of the said Small Ind. Corporation. Signed on 5-29-15 was mailed under State Delivery mail return receipt registered
a true copy of this citation together with the accompanying copy of Plaintiff's original petition WAS MAILED UNITED STATES, having first indorsed on same the date of delivery.

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: _____ To certify which witness by my hand.

For Serving Citation	\$ 76.00
For Mileage	\$
For Notary	\$
Total Fees	\$

County of _____
State of _____
By James H. King

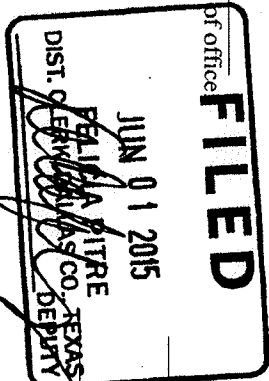
FELICIA PIRE
DISTRICT CLERK
600 COMMERCE STREET
DALLAS, TEXAS 75202-4606

PH Must be verified if served outside the State of Texas)

Signed and sworn to me by the said _____ before me this _____ day of _____, 20_____, to certify which witness my hand and seal of office _____

Seal

State & County of



9214-8901-0661-5400-0059.1431-8/

FORM NO. 353-4—CITATION
THE STATE OF TEXAS

CERT/MAIL COH

To:

CITATION

CALVIN JAMES MCBRIDE
BY SERVING THE CHAIRMAN OF THE STATE HIGHWAY AND
PUBLIC TRANSPORTATION COMMISSION
125 E. 11TH STREET
AUSTIN, TX, 78701-2483

No.: DC-15-04374-K

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

RICHARD JAWOROWSKI
VS.
CALVIN MCBRIDE, ET AL

ISSUED

ON THIS THE 26TH DAY OF MAY, 2015

petition, a default judgment may be taken against you.
Your answer should be addressed to the clerk of the 192nd District Court
at 600 Commerce Street, Dallas, Texas 75202.

Said PLAINTIFF being RICHARD JAWOROWSKI

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

Filed in said Court 16th day of April, 2015 against
CALVIN JAMES MCBRIDE, ET AL

By SPRINGE MCKINLEY, Deputy

Attorney for : Plaintiff


For suit, said suit being numbered DC-15-0437-K the nature of which demand is as follows:
Suit On **MOTOR VEHICLE ACCIDENT** etc.
as shown on said petition , a copy of which accompanies this citation. If this citation is not served, it shall be
returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.

Attorney for : Plaintiff
JOEL M. VECCHIO
THE LAW OFFICE OF JOEL M VECCHIO
PC
P.O. BOX 860826
DALLAS, TEXAS 75086-0826
972-380-4444

Given under my hand and the seal of said Court at office on this the 26th day of May, 2015

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas County, Texas


By Springe McKinley, Deputy
SPRINGE MCKINLEY

DALLAS COUNTY CONSTABLE
 **FEES PAID**
FEES NOT PAID

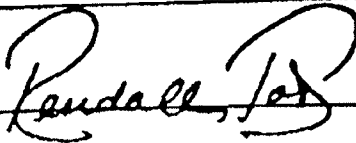


Date: May 30, 2015

MAIL MAIL:

The following is in response to your May 30, 2015 request for delivery information on your Certified Mail™/RRE item number 92148901066154000059143181. The delivery record shows that this item was delivered on May 29, 2015 at 7:02 am in AUSTIN, TX 78714. The scanned image of the recipient information is provided below.

Signature of Recipient :


RANDALL TOD

Address of Recipient :

TX DEPARTMENT OF TRANSPORTATION
749347

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

The customer reference information shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

DC1504374-K SM DP
CALVIN JAMES MCBRIDE
BY SERVING THE CHAIRMAN OF THE STATE HIGHWAY AND
PUBLIC TRANSPORTATION COMMISSION
125 E 11TH ST
AUSTIN TX 78701-2483

OFFICER'S RETURN

Case No. : DC-15-04374

Court No. 192nd District Court

Style: RICARD JAWOROWSKI

VS.

CALVIN J. MCBRIDE, et al

Came to hand on the 26th day of May, 20 15, at 10:20 o'clock A. M. Executed at 5652 Cypress Cr. Pkwy
 within the County of _____ at 10:23 o'clock A. M. on the 4th day of June Houston, Texas 77069

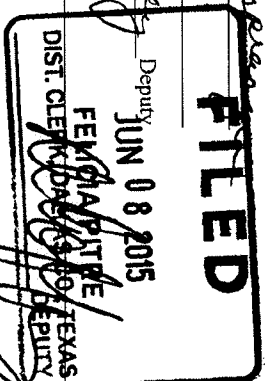
20 15, by delivering to the within named Attached to the within named
agent, Anthony Juez. was mailed sealed State Capital sealed return receipt
each, to person, a true copy of this Citation together with the accompanying copy of this pleading WAS MAILED UNITED STATES CERTIFIED MAIL RETURN RECEIPT
 REQUESTED, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To
 certify which witness my hand.

For serving Citation \$76.00
 For mileage \$ _____
 For Notary \$ _____

(Must be verified if served outside the State of Texas)

Signed and sworn to by the said _____ before me this _____, 20 _____
 to certify which witness my hand and seal of office.

FELICIA PITRE
 DISTRICT CLERK
 600 COMMERCE STREET
 DALLAS, TEXAS 75202-4606



9214-8901-0661-5400-0059-1438-08

Notary Public _____ County _____



Date: June 4, 2015

MAIL MAIL:

The following is in response to your June 4, 2015 request for delivery information on your Certified Mail™/RRE item number 92148901066154000059143808. The delivery record shows that this item was delivered on June 4, 2015 at 10:23 am in HOUSTON, TX 77069. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink that appears to read "M Espanza".

Address of Recipient :

A handwritten address in black ink that reads "Cypress Creek Rd" on the first line and "Houston TX" on the second line.

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

The customer reference information shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

DC1504374-K SM DP
WEIR TRUCKING, INC.
BY SERVING ITS AGENT, JEFFREY FULTZ
5652 CYPRESS CREEK PARKWAY
HOUSTON TX 77069-0000

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To: **WEIR TRUCKING, INC.**
BY SERVING ITS PROCESS AGENT, JEFFREY FULTZ
5652 CYPRESS CREEK PARKWAY
HOUSTON, TEXAS 77069

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE** petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 192nd District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **RICHARD JAWOROWSKI**

Filed in said Court 16th day of April, 2015 against

CALVIN JAMES MCBRIDE, ET AL

For Suit, said suit being numbered **DC-15-04374-K**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition,
a copy of which accompanies this citation. If this citation is not served, it shall be returned
unexecuted.

WITNESS: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and seal of said Court at office this 26th day of May, 2015.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas



By *Springe Mckinley*, Deputy
SPRINGE MCKINLEY

**CERT/MAIL
CITATION**

DC-15-04374-K

RICHARD JAWOROWSKI

vs.

CALVIN JAMES MCBRIDE, et al

ISSUED THIS
26th day of May, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: **SPRINGE MCKINLEY**, Deputy

Attorney for Plaintiff
JOEL M. VECCHIO
THE LAW OFFICE OF JOEL M

VECCHIO PC
P.O. BOX 860826
DALLAS, TEXAS 75086-0826
972-380-4444

DALLAS COUNTY COMSTAR



3. Further answering, if the same be necessary, Defendant contends that the allegations made the basis of the claims and alleged damages, if any, of Plaintiff were caused by acts and/or omissions of persons or third parties over whom this Defendant had no control, and for whom this Defendant is not in law responsible. Such acts and/or omissions were the sole proximate cause or a proximate cause or a producing cause of the occurrence in question and the alleged damages, if any.

4. Pleading further, Defendant asserts that the Plaintiff's alleged injuries and damages, if any, were not proximately caused by an act or omission of Defendant.

5. Pleading further, Defendant asserts that the Plaintiff's claims are barred because Defendant's conduct is not the producing cause, proximate cause, or a cause-in-fact of Plaintiff's alleged damages.

6. Pleading further, Defendant invokes §41.0105 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE and requests that to the extent Plaintiff seeks recovery of medical or healthcare expenses, the evidence to prove such loss be limited to the amount actually paid or incurred by or on behalf of the Plaintiff, as opposed to the amount charged.

7. Pleading further, Defendant alleges that the percentage responsibilities of the Plaintiff, each Defendant, each settling person, and each Responsible Third Party should, be submitted to the jury for determination pursuant to the TEXAS CIVIL PRACTICE AND REMEDIES CODE.

8. Pleading further, if the Defendant is found liable for damages, Defendant intends to seek a reduction in the percentage of Plaintiff's injuries and damages attributed to third parties.

9. Pleading further, Defendant asserts that pre-judgment interest, if any, as requested in the Plaintiff's Original Petition, is limited in accordance with §304.104 *et seq.* of the TEXAS FINANCE CODE.

10. Defendant asserts Plaintiff's damages sought were caused by Plaintiff's pre-existing injury and/or condition and Plaintiff's subsequent accidents and injuries.

11. Pleading further, and in the alternative, if such is necessary, and subject to the foregoing pleas and without waiving same, Plaintiff has failed to mitigate his damages because the Plaintiff and/or his attorneys paid or agreed to pay medical expenses incurred by the Plaintiff through a "Letter of Protection" and/or a contractual agreement tied to the outcome of this suit and failed to make challenges to the reasonableness of any of those charges or negotiate a reduced rate from the healthcare providers. Such steps would have been done by any reasonable third-party payor under these circumstances, and the Plaintiff has instead paid and/or agreed to pay full charges for any and all medical services rendered in an effort to enhance the recovery of medical and healthcare expenses under Texas Civil Practice and Remedies Code Section 41.0105. Therefore, Plaintiff has increased his damages rather than take the reasonable steps to ensure the reasonableness and necessity of the charges incurred and mitigate his economic damages.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant, Weir Trucking, Inc., prays that upon the final trial hereof Plaintiff takes nothing against Defendant. Further, Defendant asks the Court to enter Judgment that Plaintiff takes nothing, dismiss Plaintiff's suit with prejudice, assess costs against Plaintiff, and award Defendant all other relief to which it is entitled. Further, Defendant prays as alleged hereinabove that,

in the unlikely event that any recovery by Plaintiff against it herein, which is denied, Defendant be allowed full benefit of all laws of Texas limiting damages as well any prohibitions and/or limitations allowed under the Texas Constitution in the event Plaintiff seeks exemplary damages. Defendant also prays for such other and further relief to which he is justly entitled at law and in equity.

Respectfully Submitted,

THE BASSETT FIRM



MIKE H. BASSETT

SBN: 01890500

MATHEW SAMUEL

SBN: 24025631

Two Turtle Creek Village

3838 Oak Lawn Avenue, Suite 1300

Dallas, Texas 75219

(214) 219-9900 Telephone

(214) 219-9456 Facsimile

efile@thebassettfirm.com

**ATTORNEYS FOR DEFENDANT,
WEIR TRUCKING, INC.**

CERTIFICATE OF SERVICE

I certify that a true copy of this document was forwarded to the following counsel of record on this 29th day of June, 2015, pursuant to the Texas Rules of Civil Procedure:

Via eFile Texas eServe

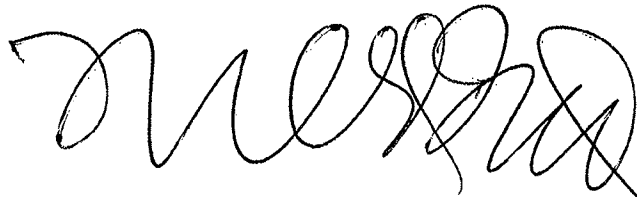
Joel M. Vecchio

Law Office of Joel M. Vecchio, P.C.

P.O. Box 860826

Plano, Texas 75086-0826

joel@vecchio-law.com



MIKE H. BASSETT